

IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

THE STATE OF ARIZONA,
Respondent,

v.

RAMON FRANCISCO MIRAMONTES,
Petitioner.

No. 2 CA-CR 2015-0205-PR
Filed September 18, 2015

THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.

NOT FOR PUBLICATION

See Ariz. R. Sup. Ct. 111(c)(1); Ariz. R. Crim. P. 31.24.

Petition for Review from the Superior Court in Cochise County
No. CR201400231

The Honorable Wallace R. Hoggatt, Judge

REVIEW GRANTED; RELIEF DENIED

COUNSEL

Mark Brnovich, Arizona Attorney General
By Jared Kreamer Hope, Assistant Attorney General, Tucson
Counsel for Respondent

Dan W. Montgomery, Tucson
Counsel for Petitioner

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MEMORANDUM DECISION

Presiding Judge Miller authored the decision of the Court, in which Chief Judge Eckerstrom and Judge Espinosa concurred.

M I L L E R, Presiding Judge:

¶1 Ramon Miramontes seeks review of the trial court’s order summarily dismissing his of-right petition for post-conviction relief filed pursuant to Rule 32, Ariz. R. Crim. P. We will not disturb that ruling unless the court abused its discretion. *See State v. Swoopes*, 216 Ariz. 390, ¶ 4, 166 P.3d 945, 948 (App. 2007). Miramontes has not met his burden of demonstrating such abuse here.

¶2 Miramontes pled guilty to conspiracy and participating in a criminal syndicate. The plea agreement included a stipulated “prison sentence of 7-10 years” and further provided the trial court could find aggravating factors by a preponderance of the evidence and the rules of evidence did not apply to that determination. The court sentenced Miramontes to concurrent, ten-year prison terms for each offense. The court found numerous aggravating factors, including that Miramontes had used his children as “decoys” during his criminal activities to “deflect attention,” and that the criminal enterprise had been ongoing for “more than five years.”

¶3 Miramontes sought post-conviction relief arguing his sentence was “excessive.” He contended no evidence supported the trial court’s finding that the criminal enterprise had gone on for five years, and the court had improperly “reus[ed]” the length of his criminal enterprise several times in determining his sentence. Miramontes also claimed that his meeting “with undercover agents with his wife and child also in the car” “f[e]ll far short of the alleged use of child decoys.” He further asserted the court had “effectively dismissed” mitigation evidence such as his remorse, his lack of criminal history, and letters submitted by his family in support of a

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lesser sentence. The trial court summarily denied relief, and this petition for review followed.

¶4 On review, Miramontes repeats the arguments raised below, but identifies no error in the trial court's ruling rejecting his claims. For example, he does not address the court's determination that it could consider Miramontes's admission during the plea colloquy and in his sentencing memorandum that the enterprise had been in existence for at least five years, nor its statement that it had considered all mitigating evidence presented. And, although Miramontes claims that he did "[n]othing illegal" during a meeting to which he brought one of his children, he ignores the court's finding that he had discussed drug trafficking with undercover agents during that meeting and that he had brought his child to mask his criminal activities. We reviewed the record and are satisfied the court correctly identified and rejected Miramontes's claims in a thorough minute entry, which we accordingly adopt. *See State v. Whipple*, 177 Ariz. 272, 274, 866 P.2d 1358, 1360 (App. 1993) (when trial court correctly rules on issues raised "in a fashion that will allow any court in the future to understand the resolution [, n]o useful purpose would be served by this court rehashing the trial court's correct ruling in a written decision").

¶5 Although we grant review, we deny relief.